

REMARKS

At the outset, the Examiner is thanked for the thorough review and consideration of the subject application. The Non-Final Office Action of May 1, 2003 has been received and its contents carefully reviewed.

By this amendment, Applicant hereby amends the specification and title. Applicants respectfully submit no new matter has been entered by the present amendment.

In the Office Action dated May 1, 2003, the Examiner objected to the drawings under 37 CFR § 1.84(p)(4) because reference characters "12" and "15" have both been used to designate "gate line"; objected to the drawings under 37 CFR § 1.83(a) as failing to show every feature of the invention specified in the claims; objected to the title of the invention as not being descriptive; objected to the disclosure of the invention as being so incomprehensible as to preclude a reasonable search of the prior art by the Examiner; objected to the disclosure due to the presence of typographical errors; rejected claims 1-3 and 8-16 under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement; and rejected claims 1-3 and 8-16 under 35 U.S.C. § 112, second paragraph, as failing to particularly point out and distinctly claims the subject matter which Applicant regards as the invention. These objections and rejections are traversed and reconsideration of the drawings, specification, and claims is respectfully requested in view of the following amendments and remarks.

Preliminarily, Applicant notes that the Office Action Summary of the outstanding Office Action set forth a shortened statutory period for reply to expire three months from the mailing date of the outstanding Office Action (May 1, 2003). However, at page 3 of the Office Action, the Examiner stated the shortened statutory period for reply to the outstanding

Office Action is set to expire one month, or thirty days, whichever is longer, from the mailing date of the outstanding Office Action.

According to M.P.E.P. § 710.02(b), the Commissioner has directed the Examiner to set a shortened period for reply to every action. The length of the shortened statutory period to be used depends on the type of reply required. A shortened statutory period of one month (not less than thirty days) is set for replies to a requirement for restriction or election of species or when a reply by an Applicant for a nonfinal Office Action is *bona fide* but includes an inadvertent omission. A shortened statutory period should be set for three months for replies to any Office Action on the merits.

Applicant respectfully submits the Office Action dated May 1, 2003 did not include a requirement for restriction or election of species. Moreover, Applicant has not submitted a *bona fide* reply to a nonfinal Office Action including an inadvertent omission prior to the present Reply under 37 CFR § 1.111. Rather, the present Reply under 37 CFR § 1.111 is responsive to the Office Action dated May 1, 2003, an Office Action on the merits including objections to the specification and title and rejections to the claims.

Accordingly, Applicant respectfully submits the shortened statutory period for reply expires on August 1, 2003, three months from the mailing of the outstanding Office Action of May 1, 2003.

In objecting to the drawings under 37 CFR § 1.84(p)(4), the Examiner stated “reference characters “12” and “15” have both been used to designate “gate line” (specification, p. 3, lines 10-13[)]” and required a proposed drawing correction or corrected drawings.

By the Amendments to the Specification attached above, Applicant respectfully submits the objection to the drawings under 37 CFR § 1.84(p)(4) is hereby rendered moot. Accordingly, Applicants respectfully request withdrawal of the objection to the drawings under 37 CFR § 1.84(p)(4).

In objecting to the drawings under 37 CFR § 1.83(a), the Examiner notes that the specification, at page 7, lines 13 and 14, states “the first active layer is ‘not shown’,” and asserts that “the first and second active layers” and “the light volume or light transmission adjusting layer controlled by the second gate line” must be shown or the features(s) canceled from the claims(s).

As correctly pointed out by the Examiner, 37 CFR § 1.83(a) requires that the drawings show every feature of the invention specified in the claims. However, 37 CFR § 1.83(a) also states that conventional features disclosed in the description and claims, where their detailed illustration is not essential for a proper understanding of the invention, should be illustrated in the drawings in the form of a graphical drawing symbol.

Regarding the “first active layer” cited by the Examiner, the specification states at page 8, lines 4 and 5 that “a first active layer, which is a channel layer of the TFT (not shown) is formed on the gate insulating film 52...” Further, at page 2, lines 11 and 12, the specification states “A designer must select between an amorphous-silicon TFT (a-Si:H TFT) and a Polycrystalline silicon TFT...” Still further, the related art illustrated in Figure 2 illustrates TFTs arranged proximate crossings of the gate lines and data lines. Therefore, and in accordance with the requirements of 37 CFR § 1.83(a), Applicant respectfully submits that the “first active layer,” described above as the channel layer of the TFT (which is also not

shown) is a conventional feature disclosed in the specification and drawings that is not essential for a proper understanding of the present invention.

However, regarding the “second active layer” cited by the Examiner, the specification states at page 8, lines 5-7 that “a second active layer 53 is formed on the gate insulating film corresponding to a portion where the pixel electrodes [57] are formed” and at page 9, lines 20 and 21 “[w]hen the pixel electrode... is formed, the active layer is formed on a lower layer of the pixel electrode to restrict the transmission of light...” Accordingly, Applicant respectfully submits the “second active layer”, and thus the “light transmission adjusting layer,” is shown in the Figures.

Accordingly, Applicant respectfully submits the objection to the drawings under 37 CFR § 1.83(a) is hereby rendered moot and respectfully requests withdrawal of the objection to the drawings under 37 CFR § 1.84(p)(4).

The Examiner objected to the title of the invention as not being descriptive and required a new title that is clearly indicative of the invention to which the claims are directed.

While Applicant believe the title to be clearly indicative of the invention to which the claims are direction, Applicant hereby amends the title solely to expedite prosecution.

Therefore, and by the present amendment, Applicant hereby amends the title to LCD WITH LIGHT TRANSMISSION ADJUSTING LAYER AND METHOD OF FORMING.

Accordingly, Applicant respectfully requests withdrawal of the objection to the title.

In objecting to the disclosure as being so incomprehensible as to preclude a reasonable search of the prior art, the Examiner stated “...the following items are not understood: (1) what the function of the light volume adjusting layer is in the LCD; (2) how the light volume adjusting layer operates to adjust the light; (3) what source of light is being

adjusted; and (4) how the second gate line is connected to and operates the light volume adjusting layer to perform its function.”

Applicant respectfully submits the present application is not an obviously informal application. Moreover, Applicant respectfully submits the terms, phrases, and modes of characterization used to describe the present invention are sufficiently consonant with the art to which the invention pertains, and with which it is most nearly connected, to enable the Examiner to make the reasonable search. Applicant respectfully submits the fact that the Examiner does not understand “(1) what the function of the light volume adjusting layer is in the LCD; (2) how the light volume adjusting layer operates to adjust the light; (3) what source of light is being adjusted; and (4) how the second gate line is connected to and operates the light volume adjusting layer to perform its function” does not render the disclosure as filed “incomprehensible.” Accordingly, Applicant respectfully requests withdrawal of the objection to the specification.

In view of the Amendments to the Specification above, Applicant respectfully requests withdrawal of the objections to the specification due to the presence of typographical errors.

The rejection of claims 1-3 and 8-16 under 35 U.S.C. § 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention, is respectfully traversed and reconsideration is requested.

In rejecting claims 1-3 and 8-16 under 35 U.S.C. § 112, first paragraph, the Examiner stated the specification does not “...enable one of ordinary skill (1) what the function of the light volume adjusting layer is in the LCD; (2) how the light volume adjusting layer operates

to adjust the light; (3) what source of light is being adjusted; and (4) how the second gate line is connected to and operates the light volume adjusting layer to perform its function.”

According to M.P.E.P. § 2164.04, the Examiner has the initial burden to establish a reasonable basis to question the enablement provided for the claimed invention. Whenever a rejection under 35 U.S.C. § 112, first paragraph, is made, the Examiner must explain why the truth of enablement of the claimed invention is doubtful and must back up assertions with acceptable evidence or reasoning which is inconsistent with the contested statement(s). The Examiner should specifically identify what information is missing and why one skilled in the art could not supply the information without undue experimentation. Specific technical reasons are always required.

By merely asserting that the specification does “not enable one of ordinary skill [to understand] (1) what the function of the light volume adjusting layer is in the LCD; (2) how the light volume adjusting layer operates to adjust the light; (3) what source of light is being adjusted; and (4) how the second gate line is connected to and operates the light volume adjusting layer to perform its function,” Applicant respectfully submits the Examiner has failed to establish a reasonable basis to question the enablement provided for the claimed invention.

In accordance with M.P.E.P. § 2164.05(b), Applicant respectfully submits the specification as filed is enabling with respect to those skilled in the art in relation to subject matter to which the claimed invention pertains at the time the application was filed.

Accordingly, Applicant respectfully submits one of ordinary skill would understand (1) what the function of the light volume adjusting layer is in the LCD; (2) how the light volume adjusting layer operates to adjust the light; (3) what source of light is being adjusted; and (4)

how the second gate line is connected to and operates the light volume adjusting layer to perform its function.

The rejection of claims 1-3 and 8-16 under 35 U.S.C. § 112, second paragraph, as failing to particularly point out and distinctly claim the subject matter which application regards as the invention is respectfully traversed and reconsideration is requested..

In rejecting claims 1 and 13, the Examiner states claims 1 and 13, as presently written, “make it unclear whether it is the light volume adjusting (light transmission restricting) layer or the pixel electrode that is controlled by the second gate (scanning) line.

In rejecting claim 8, the Examiner states claim 8, as presently written, “makes it unclear whether it is the substrate or the light transmission restriction layer that is controlled by the second scanning line.”

According to M.P.E.P. § 2173.02, the test for definiteness under 35 U.S.C. § 112, second paragraph, is whether “those skilled in the art would understand what is claimed when the claim is read in light of the specification.

Accordingly, Applicant respectfully submits that, read in light of the specification, the claims are definite and that one of ordinary skill in the art would readily recognize whether “the light volume adjusting (light transmission restricting) layer or the pixel electrode ...is controlled by the second gate (scanning) line” and whether “the substrate or the light transmission restriction layer ...is controlled by the second scanning line.”

Assuming arguendo, that claims 1-3 and 8-16 are properly rejected under 35 USC § 112, first and second paragraph, Applicant respectfully submits the invention defined in claims 1-3 and 8-16 must still be considered in view of any pertinent prior art. According to MPEP § 2143.03, indefinite limitations as well as limitations unsupported in the original

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specification cannot be disregarded. All limitations of the claims must be considered and given weight even when limitations are unsupported by the original specification and when claims are subject to more than one interpretation. Claims should be rejected over the prior art based on whatever interpretations of the claim that renders the prior art applicable.

Applicant believes the application is in condition for allowance and early, favorable action is respectfully solicited. Should the Examiner deem that a telephone conference would further the prosecution of this application, the Examiner is invited to call the undersigned attorney at (202) 496-7500.


The Commissioner is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 50-0911, under Order No. 8733.460.

Respectfully submitted,

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